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GOVERNMENT OF INDIA
MINISTRY OF LAW

New Delhi, the 19th November 1948

ORDINANCE No. XXXV of 1948

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ORDINANCE

further to amend the Taxation on Income (Investigation Commission) Act, 1947

WHEREAS an emergency has arisen which makes it necessary further to amend the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), for the purposes hereinafter appearing;

NOW THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Taxation on Income (Investigation Commission) (Amendment) Ordinance, 1948.

(2) It shall come into force at once.

2. Amendment of section 6, Act XXX of 1947.—In section 6 of the Taxation on Income (Investigation Commission) Act, 1947 (hereinafter referred to as the said Act),—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Commission shall have power to require any person or banking or other company to prepare and furnish on or before a specified date written statements of accounts and affairs verified in such manner as may be prescribed by the Commission and, if so required by the Commission, also duly verified by a qualified auditor, giving information on such points or matters as in the opinion of the Commission may, directly or indirectly, be useful for, or relevant to, any case referred to it; and any person or banking or other company so required shall be bound, notwithstanding any law to the contrary, to comply with such requirement.”;

(ii) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) For the purpose of any investigation, the Commission may impound and retain in its custody, for such period as it thinks fit, any document produced before it.”;

(iii) in sub-section (4), for the brackets, figures and word “(1) and (2)”, the brackets, figures, word and letter “(1), (2) and (2A)” shall be substituted;

(iv) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) Where in the opinion of the Commission any person or banking or other company is likely to be in possession of any information or document which may, directly or indirectly, be useful for, or relevant to, any case referred to it or any case likely to be reported by the Commission to the Central Government under the provisions of sub-section (4) of section 5, the Commission, and subject to the direction of the Commission, any authorised official, may make such enquiries in such manner as it or he may deem fit and obtain from such person or banking or other company statements, on oath or otherwise, on such points or matters as may be specified; and for the purpose of any such enquiry, the Commission and the authorised official shall have all the powers conferred on them by sub-sections (1), (2), (2A), (3) and (4).”

3. Insertion of new section 8A in Act XXX of 1947.—After section 8 of the said Act, the following section shall be inserted, namely:—

“8A. *Settlement of cases under investigation.*—(1) Where any person concerned in any case referred to or pending before the Commission for investigation applies to the Commission, at any time during such investigation, to have the case or any part thereof settled in so far as it relates to him, the Commission shall, if it is of opinion that the terms of the settlement contained in the application may be approved, refer the matter to the Central Government, and if the Central Government accepts the terms of such settlement, the Commission shall have the terms thereof recorded and thereupon the investigation, in so far as it relates to matters covered by such settlement, shall be deemed to be closed.

(2) For the purpose of enforcing the terms of any settlement arrived at in pursuance of sub-section (1), the Central Government may direct that such proceedings as may be appropriate under the Indian Income-tax Act, 1922 (XI of 1922), the Excess Profits Tax Act, 1940 (XV of 1940) or any other law may be taken against the person to whom the settlement relates, and, in particular, the provisions of the second proviso to clause (a) of sub-section (5) of section 23, section 24B, the proviso to sub-section (2) of section 25A, the proviso to sub-section (2) of section 26 and sections 44 and 46 of the Indian Income-tax Act, 1922, shall be applicable to the recovery of any sum specified in such settlement by the Income-tax Officer having jurisdiction to assess the person by whom such sum is payable as if it were income-tax or an arrear of income-tax within the meaning of those provisions.

(3) Subject to the provisions of sub-section (6) of section 8, any settlement arrived at under this section shall be conclusive as to the matters stated therein, and no person whose case has been so settled shall be entitled to reopen in any proceeding for the recovery of any sum under this section or in any subsequent assessment or reassessment proceeding relating to taxation on income or in any other proceeding before any Court or other authority any matter which forms part of such settlement.

(4) Nothing contained in this section shall, unless otherwise expressly specified in the settlement, be a bar to the initiation of proceedings under section 84 of the Indian Income-tax Act, 1922.”

C. RAJAGOPALACHARI,
Governor-General.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.